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UNCLAS SANTO DOMINGO 000370

SIPDIS

STATE FOR WHA/CAR (MCISAAC), GTIP (OWEN); SOUTHCOM ALSO FOR
POLAD

E.O. 12958: N/A

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SUBJECT: DOMINICAN ATTORNEY GENERAL JAILS

TRAFFICKER-CONGRESSMAN, ASKS CONGRESS TO STRIP HIM OF
IMMUNITY

1. Dominican Attorney General Francisco Dominguez Brito had accused alien smuggler Congressman Guillermo Radhames Ramos Garcia arrested at 7 a.m. on January 13, the first day that the House was no longer in session. Bailiffs delivered him to Najayo jail on January 13 to await his next trial date, February 9. Assistant Attorney General for trafficking in persons Frank Soto told poloff that the detention is valid until Congress reconvenes in its regular session on February 27.

2. Ramos Garcia is formally charged with smuggling 16 Asians across the Dominican border with Haiti when he was consul in Cape Haitien in 2002. Since he is a member of the House of Representatives, he enjoys constitutional immunity while Congress is in session; his status means that charges against him must be heard in the Supreme Court. Article 32 of the Dominican Constitution provides that no sitting Senator or Deputy can be deprived of his personal liberty "during the legislature" without the consent of the house to which the Senator or Deputy belongs.

3. In late January President Fernandez convoked Congress for an extraordinary session to consider various financial issues. Ramos Garcia's lawyers petitioned for his release, contending that the constitutional provisions apply when Congress is in extraordinary sessions, as well. The Attorney General's office plans to fight the release request as a matter of interpretation of Article 32. (The opening of the extraordinary session, set for January 25, was delayed when congressional legal staff noted that Fernandez's convocation was incorrectly dated 2004 instead of 2005.)

4. Attorney General Dominguez Brito wrote on January 25 to President of the House of Representatives Alfredo Pacheco asking that the House revoke Ramos Garcia's immunity owing to the severity of the alleged crime and "the burden of shame" that the case has caused to the Dominican Republic's international reputation. Dominguez Brito's position was supported by daily paper El Caribe. The paper's lead editorial commented, "Immunity should not be a refuge that gives impunity to any Congressman," and called for Ramos Garcia's to be kept in jail. If the House of Representatives revokes Ramos Garcia's immunity, he may be detained for as long as the case takes to process. As of January 26 Ramos Garcia remains in jail.

Comment

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5. The Attorney General's public position demonstrates the determination of the administration to hold Ramos Garcia responsible. It also reflects the Embassy's continued efforts to move this case to completion. The House has had no appetite up to now for suspending one of its own, but pressure from the executive branch and the public might change its mind. Keeping Ramos Garcia in jail would not be likely to affect the deliberations of Supreme Court justices but would be important in convincing the public that there is hope for prosecuting those who have arrogantly enjoyed impunity, whether legal or de facto.

HERTELL